



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET- SUITE 300

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

2005 MAY -5 AM 8:15

FILED
EPA REGION VIII
HEARING CLERK

DOCKET NO.: TSCA-08-2005-0010

IN THE MATTER OF:

MONTANA-DAKOTA UTILITIES CO.)

909 Airport Road)

Bismarck, ND 58504-5650)

RESPONDENT)

FINAL ORDER

Pursuant to 40 C.F.R. §22.18, of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Final Order. The Respondents are hereby **ORDERED** to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondents of this Consent Agreement and Final Order.

DATE

May 5, 2005

Alfred C. Smith
Alfred C. Smith
Regional Judicial Officer

2005 MAY -5 AM 8:15

FILED
EPA REGION VIII
HEARING CLERK

Respondent.

CONSENT AGREEMENT

a. Payment is due within thirty (30) calendar days after Respondent's receipt of a signed Final Consent Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. The date the payment is made is considered to be the date of receipt of the payment at the Mellon Bank described below. Payment must be received by 11:00 a.m. EST to be considered as received that day.

b. The payment shall be made by remitting a cashier's or certified check for \$850.00, which includes the name and docket number of this case, payable to "Treasurer, United States of America," via Regular Mail at:

U. S. Environmental Protection Agency, Region 8
Mellon Bank
P.O. Box 360859
Pittsburgh, PA. 15251-6859

Federal Express, Airborne, or other commercial carrier at:

U.S. EPA, 360859
Mellon Client Service Center Rm. 670
500 Ross Street
Pittsburgh, PA 15262-0001

Or by Wire Transfer sent directly to the Federal Reserve Bank in New York City with the following information:

ABA=021030004
TREAS NYC/CTR/
BNF=AC-68011008

A copy of the cashier's or certified check or a notification of the wire transfer shall be sent simultaneously to:

Kim Le
PCB Enforcement Officer
Technical Enforcement Program (8ENF-AT)
U.S. EPA Region VIII
999 19th Street, Suite 300
Denver, Colorado 80202-2466

and

Ms. Tina Artemis
Regional Hearing Clerk (8RC)
U.S. EPA Region VIII
999 19th Street, Suite 300
Denver, Colorado 80202-2466

c. In the event the payments are not received by the specified due dates, **interest accrues from the date of the final consent order, not the due date**, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. §3717, and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 61 days of interest accrues).

d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed on the 61st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per year penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to accrued interest, penalty and/or handling charge; the balance is then applied to the outstanding principal amount.

e. Respondent agrees that the penalty shall never be claimed as a federal or other tax deduction or credit.

f. Respondent further agrees and consents that if Respondent fails to pay the entire penalty amount as specified in paragraph (a) above, the full penalty amount proposed in the Complaint shall become immediately due and owing by Respondent.

6. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with TSCA and its implementing regulations.

7. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.

8. Nothing in this Consent Agreement shall be construed as a waiver by the U.S. EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Agreement.

9. The undersigned representative of Respondent certifies that he/she is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the party he/she represents to the terms and conditions of this Consent Agreement.

10. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final consent order.

11. Each party shall bear its own costs and attorneys fees in connection with this matter.

12. This Consent Agreement, upon incorporation into a final consent order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

In the Matter of Montana-Dakota Utilities Co.

Docket No. TSCA-8-2005-0010

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8,
Office of Enforcement, Compliance and Environmental Justice,
Complainant.

Date:

4/28/05

By:

Michael T. Risner

Michael T. Risner, Director

David J. Janik, Supervisory Enforcement Attorney

Legal Enforcement Program

Date:

4/28/05

By:

Martin Hestmark

Martin Hestmark, Director

Technical Enforcement Program

MONTANA-DAKOTA UTILITIES, CO.
Respondent.

Date:

4/19/2005

By:

Jay Skabo

Jay Skabo, Environmental Manager

Montana-Dakota Utilities Co.

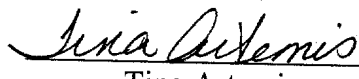
CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter **MONTANA-DAKOTA UTILITIES CO., DOCKET NO.: TSCA-08-2005-0010** was filed with the Regional Hearing Clerk on May 5, 2005.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Alicia Hoegh, Enforcement Attorney, U. S. EPA – Region 8, 999 18th Street, Suite 300, Denver, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt requested on May 5, 2005, to:

MDU Resources Group, Inc., Owner of
Montana-Dakota Utilities Co.
918 E. Divide Avenue
P. O. Box 5650
Bismarck, ND 58506-5650

May 5, 2005


Tina Artemis
Regional Hearing Clerk



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